

**United States Bankruptcy Court
District of Idaho**

PROOF OF CLAIM
THIS SPACE IS FOR COURT USE ONLY
FILED DEC 02 '03 PM 04:33 USCT ID
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Name of Debtor: - **GERALD LINDSEY**

Case Number: **03-21652**

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to U.S.C. §503.

Name of Creditor (The person or other entity to whom the debtor owes money or property):
**Virgil Vial
c/o Sheila R. Schwager
Hawley Troxell Ennis & Hawley, LLP
P.O. Box 1617
Boise, ID 83701
Telephone Number: (208) 344-6000**

Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
 Check box if you have never received any notices from the bankruptcy court in this case.
 Check box if the address differs from the address on the envelope sent to you by the court.

Account or other number by which identifies debtor:

Check here if this claim: Replaces Amends a previously filed claim dated:

1. **Basis for Claim** Goods Sold Services Performed Money Loaned Personal Injury/Wrongful Death Taxes
 Retiree benefits as defined in 11 U.S.C. § 1114(a) Other (please describe):
 Wages, Salaries and compensation; Your Social Security Number: _____
 Unpaid Compensation for services performed from _____ (date) to _____ (date)

2. **Date debt was incurred:**
June 2000

3. **If court Judgment, date obtained:**
August 31, 2002

4. **Total Amount of Claim at Time Case Filed:** \$ **177,767.42**

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.
 Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. SECURED CLAIM
 Check box if your claim is secured by collateral (including a right of setoff).
Brief Description of Collateral: Creditor has a judgment lien against all real property that the Debtors have an interest in.
 Real Estate Motor Vehicle
 Other _____
Value of Collateral \$ _____
Amount of arrearage and other charges at time the case was filed included in secured claim, if any: \$ _____

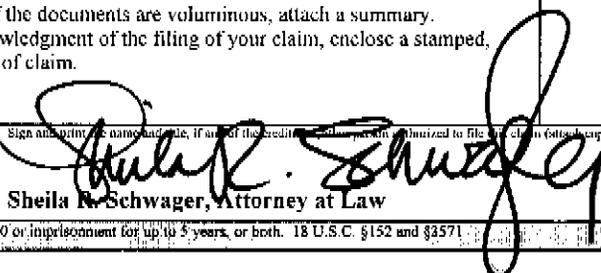
6. UNSECURED PRIORITY CLAIM
 Check box if you have an unsecured priority claim
Amount entitled to priority \$ _____
Specify priority of claim
 Wages, salaries, or commissions (up to \$4,650)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier. (11 U.S.C. § 507(a)(3)).
 Contributions to an employee benefit plan (11 U.S.C. § 507(a)(4)).
 Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family or household use (11 U.S.C. § 507(a)(6)).
 Alimony, maintenance, or support owed to a spouse, former spouse or child (11 U.S.C. § 507(a)(7)).
 Taxes or penalties owed to governmental units (11 U.S.C. § 507(a)(8)).
 Other - Specify applicable paragraph of 11 U.S.C. § 507(a)().

**Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

7. **Credits:** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.
8. **Supporting Documents:** Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, please explain. If the documents are voluminous, attach a summary.
9. **Date Stamped Copy:** To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

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DATE
December 2, 2003

Sign and print the name and title, if any, of the creditor or person authorized to file the claim (attach copy of power of attorney, if any)

Sheila R. Schwager, Attorney at Law

Penalty for presenting fraudulent claims: Fine up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §152 and §3571

**ATTACHMENT TO PROOF OF CLAIM
DEBTOR - NOEL S. TANNER - CASE NO. 03-01086
SECURED CREDITOR - VIRGIL VIAL**

JUDGMENT

Original principal judgment	149,000.00
Prejudgment interest	21,847.89
Attorney fees	<u>6,164.00</u>
Total Judgment	176,903.70
Interest (35.14 per diem 9/1/02-6/20/03 - 293 days)	10,331.16
Attorney fees (through 6/20/03)	11,193.15
Less Sheriff's sale (6/20/03)	<u>- 30,751.45</u>
Amount Owed on Judgment as of 6/20/03	167,676.56
Interest (33.31 per diem 6/21/03-10/02/03 - 103 days)	3,430.93
Attorney fees & costs (6/1/03-10/02/03)	<u>6,226.90</u>
Total Amount Owed on Judgment as of 10/02/03	177,334.39
Interest accrues at 33.31 per diem	

424868

IDAHO COUNTY DISTRICT COURT
FILED
AT 2:41 O'CLOCK P.M.

OCT 17 2002

ROSE E. GEHRING
CLERK OF DISTRICT COURT
[Signature] DEPUTY

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John B. Patterson, Esq.
Alaska Bar No.: 7605047
Kelly & Patterson
2263 Spenard Road
Anchorage AK 99503
(907) 258-6777

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT

VIRGIL VIAL, MARK VIAL AND MIKE VIAL
d/b/a AU MINING,)

CV34112

Filed in the Trial Courts
STATE OF ALASKA, THIRD DISTRICT

Plaintiffs,)

vs.)

AUG 5 1 2002

Gerald A. Lindsey, and Noel S. Tanner,)

Clerk of the Trial Courts

Defendants.)

By *[Signature]* Dep

Case No. 3AN-01-9064 Civ.

JUDGMENT ON DEFAULT

IT IS ORDERED that judgment is entered as follows:

The Plaintiffs, Virgil Vial, Mark Vial and Mike Vial, jointly shall recover and have judgment against Gerald A. Lindsey as follows:

(a) Principal amount: \$149,000.00
(One Hundred Forty Nine Thousand Dollars)

Judgment on Default - Lindsey
Vial v. Lindsey, Case No.: 3AN-01-9064 Civ.
Page 1

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ANCHORAGE, ALASKA 99503
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2002

AUG 6 2002

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(b) Prejudgment interest on \$149,000.00
at the contracted rate of 8% from
October 2, 2000, to August 1, 2002
amounting to:
(\$2,906.09 for yr. 2000 from 10/2
(\$11,920 for yr. 2001)
(\$6,913.60 for yr. 2002 until 8/1)

21847.89
\$ 21,739.70
\$ 170,739.70

Subtotal:

(c) ARCP 82 attorney's fees in the
amount of:
(10% of \$25,000 or \$2,500)
(3% of \$75,000 or \$2,250)
(2% of \$70,739.70 or \$1,414)

\$ 6,164.00

TOTAL JUDGMENT:

\$ 176,903.70

Post Judgment interest rate:

Further, Plaintiffs, having reserved a security interest in same, shall have
foreclosure of the equipment Plaintiffs sold to Defendant as allowed by AS 45.29.101 et
seq; where any net amounts realized therefrom shall reduce the amount that may be
recovered from Defendant under this judgment.

DATED at Anchorage, Alaska this 31 day of Aug, 2002.

By: [Signature]
Honorable Sen K. Tan
Judge of the Superior Court

I certify that on 9-9-02 a copy
of the above was mailed to each of the following at
their addresses of record:

[Signature] Patterson
[Signature] Donnellan
[Signature] Lindsey
Administrative Assistant

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Certificate of Service

I hereby certify that a copy of this document was mailed on August 16, 2002, to the following:

Barry Donnellan, Esq.
P.O. Box 73795
Fairbanks AK 99707

Noel S. Tanner
Gerald A. Lindsey
HCO1 Box 109B
White Bird ID 83554

By: *[Signature]*

KELLY & PATTERSON
2855 SPENARD ROAD
ANCHORAGE, ALASKA 99508
(907) 588-8777

STATE of IDAHO
County of Idaho
Recorded at request of <u>Vicari Vial</u>
at <u>2:55</u> P.M. on <u>10-17-02</u>
ROSE E. GEHRING
By <u>Aracelis C. Cady</u> Recorder
Fees: <u>9.00</u> Deputy

[Signature]



I, Rose E. Gehring, Clerk of the above entitled Court do hereby certify the foregoing to be a true and correct copy of the original instrument on file in my office.
Witness my hand and official seal this 17th day of October 2002
By Rose E. Gehring Clerk
Bobby Johnson Deputy

Judgment on Default - Lindsey
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I hereby certify that this is a true and correct copy of the original on file in my office.
ATTEST:
Clerk of the Trial Courts at Anchorage
By [Signature] 9-16-02
Date

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